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<AGENCY TYPE='S'>ENVIRONMENTAL PROTECTION AGENCY

<CFR>40 CFR Part 52

<DEPDOC>[EPA-R10-OAR-2011-0194; FRL-9709-5]

<SUBJECT>Approval and Promulgation of State Implementation Plans: Idaho;

Boise-Northern Ada County Air Quality Maintenance Area

Second 10-Year Carbon Monoxide Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of Idaho (the State). The Idaho State Department of Environmental Quality (IDEQ) submitted the Northern Ada County Air Quality Maintenance Area Second 10-year Carbon Monoxide Maintenance Plan on February 10, 2011. In accordance with the requirements of the Federal Clean Air Act (the Act), EPA is approving the revision because the State adequately demonstrates that the Boise-Northern Ada County Air Quality Maintenance Area will maintain air quality standards for carbon monoxide (CO) through the year 2022.

DATES: This rule is effective on October 1, 2012, without further notice, unless EPA receives adverse comment by September 4, 2012. If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2011-0194, by any of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: chi.john@epa.gov
- Mail: John Chi, U.S. EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101
- Hand Delivery / Courier: U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: John Chi, Office of Air, Waste and Toxics, AWT - 107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2011-0194. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If

you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: John Chi at telephone number: (206) 553-1230, e-mail address: chi.john@epa.gov, fax number: (206) 553-0110, or Claudia Vergnani Vaupel at telephone number: (206) 553-6121, email address: vaupel.claudia@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or

“our” is used, we mean the EPA. Information is organized as follows:

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I. What is the Purpose of this Action?

EPA is taking direct final action to approve the second 10-year CO maintenance plan for the Northern Ada County, Idaho Air Quality Maintenance Area. The Northern Ada County Area attained the CO national ambient air quality standards (NAAQS) in 2002 and has not violated the standard since 1986. The second 10-year CO maintenance plan submitted by the State is designed to keep the Northern Ada County Area in attainment for the CO standard for a second 10-year period beyond redesignation.

II. What is the Background for this Action?

Under section 107(d)(1)(C) of the Act, any area designated before the date of enactment of the Clean Air Act Amendments of 1990 was to be designated upon enactment by operation of law. CO nonattainment areas that had not violated the CO standard in either year for the two-year period 1988-1989 were to be designated nonattainment and identified as “not classified” nonattainment areas. Accordingly, on November 6, 1991, the Boise-Northern Ada County Area was designated nonattainment for the CO NAAQS and identified as “not-classified” (56 FR 56746).

On January 17, 2002, the State requested EPA redesignate the Northern Ada County nonattainment area to attainment and submitted a limited maintenance plan to demonstrate maintenance of the standard for a 10-year period. EPA published approval of the redesignation request and maintenance plan on October 28, 2002 (67 FR 65713). The State submitted a second 10-year maintenance plan to EPA on February 10, 2011.

The 8-hour CO standard is attained when the daily average 8-hour CO concentration of 9.0 parts per million (ppm) is not exceeded more than once a year. Since the redesignation of the Northern Ada County Area to attainment for CO on December 27, 2002, the second highest concentration in any calendar year measured by the EPA approved monitoring network was 3.3 ppm, which is less than 9.0 ppm. Therefore the area is attaining the CO NAAQS.

In addition, areas that can demonstrate design values at or below 7.65 ppm (85 percent of exceedance levels of the CO NAAQS) for 8 consecutive quarters may use a limited maintenance plan option. The State has opted to develop a limited maintenance plan to fulfill the second 10-

year maintenance plan required by the Act. The base year in the State's second 10-year maintenance plan is 2008, which has a design value of 2.9 ppm. EPA reviewed air quality monitoring data (2010-2011) and the 8-hour CO design value for the Northern Ada County Area is 1.6 ppm. Thus, the area qualifies to use the limited maintenance plan option.

III. How Have the Public and Stakeholders Been Involved in this Rulemaking Process?

Section 110(a)(2) of the Act requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to EPA. The State of Idaho held a public hearing on January 26, 2011, in Boise, Idaho. A notice of public hearing was published in the *Idaho Statesman* on December 27, 2010. A notice was also published in the *Valley News* on January 10, 2011. This SIP revision became State effective on February 10, 2011, and was submitted by the Governor's designee to the EPA on February 10, 2011. EPA has evaluated the State's submittal and determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the Act.

IV. Evaluation of Idaho's Submittal

EPA has reviewed the Northern Ada County second 10-year CO maintenance plan and concludes that the submittal meets the requirements of section 175A(b) of the Act. The following is a summary of the requirements and EPA's evaluation of how each requirement is met.

A. Base Year Emissions Inventory

The plan must contain an attainment year emissions inventory to identify a level of emissions in the area which is sufficient to attain the CO NAAQS. The Northern Ada County second 10-year CO maintenance plan contains an emissions inventory for the base year 2008 that is consistent with EPA's most recent guidance on maintenance plan emission inventories. The emissions inventory is a list, by source, of the air contaminants directly emitted into the Northern Ada County CO Area. The data in the emissions inventory is based on calculations and is developed using emission factors, which is a method for converting source activity levels into an estimate of emissions contributions for those sources. Because violations of the CO NAAQS are most likely to occur on winter weekdays, the inventory prepared is in a "typical winter day" format. The table below shows the tons of CO emitted per winter day in 2008 by source category.

2008 Average Winter Day CO Emission Inventory

Main Source Category	CO Emissions Tons per Winter Day
Point Sources	0.5
Major Point Sources w/in 25 miles	4.2
Onroad Mobile Sources	146.1
Non-road Mobile Sources	62.5
Area Sources	49.7
Biogenic	1.5
Total	264.5

B. Demonstration of Maintenance

The maintenance plan demonstration requirement is considered to be satisfied for areas using the limited maintenance plan option, which are required to demonstrate design values at or

below 7.65 ppm (85 percent of exceedance levels of the CO NAAQS) for 8 consecutive quarters. The State has opted to develop a limited maintenance plan to fulfill the Northern Ada County Area second 10-year maintenance plan required by the Act.

With the limited maintenance plan option, there is no requirement to project emissions of air quality over the maintenance period. EPA believes that if the area begins the maintenance period at, or below, 85 percent of the level of the CO 8-hour NAAQS, the applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the 10-year maintenance period. The last monitored violation of the CO NAAQS in the Northern Ada County Area occurred in 1986, the last exceedance was in January 1991, and the monitored CO levels have been steadily in decline ever since. The 8-hour CO design value for Northern Ada County is 1.6 ppm based on 2010-2011 data, which is below the limited maintenance plan requirement of 7.65 ppm. Therefore, the Northern Ada County Area has adequately demonstrated that it will maintain the CO NAAQS into the future.

C. Monitoring Network and Verification of Continued Attainment

To verify the attainment status of the area over the maintenance period, the maintenance plan should contain provisions for continued operation of an appropriate, EPA-approved monitoring network in accordance with 40 CFR part 58. The State has an approved monitoring network that includes the Northern Ada County Area. The monitoring network was most recently approved by EPA on September 6, 2011. In the Northern Ada County second 10-year CO

maintenance plan, IDEQ commits to verify continued attainment through the EPA-approved monitoring network in accordance with 40 CFR part 58.

D. Contingency Plan

Section 175A(d) of the Act requires that a maintenance plan include contingency provisions. The Northern Ada County second 10-year CO limited maintenance plan contains a contingency plan that would institute an oxygenated fuels program or another equivalent CO reduction measure based on the EPA's guidance and recommendations. The contingency plan is triggered either when an exceedance of the 8 hour CO standard is recorded on any monitor, or when a monitor records non-overlapping 8 hour CO concentrations of 8 ppm on 4 or more days within a single winter season within the nonattainment area. EPA finds that the contingency measures provided in the maintenance plan are adequate to ensure prompt correction of a violation.

V. Transportation and General Conformity

Transportation conformity is required by section 176(c) of the Act. EPA's conformity rule requires that transportation plans, programs, and projects that are funded under 23 U.S.C. or the Federal Transit Act conform to SIPs. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

The transportation conformity rule (40 CFR parts 51 and 93) and the general conformity

rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a Federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While EPA's limited maintenance plan option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the limited maintenance plan option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the CO NAAQS would result. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in section 93.158 (a)(5)(i)(A) for the same reasons that the budgets are essentially considered to be unlimited.

While areas with maintenance plans approved under the limited maintenance plan option are not subject to the budget test, the areas remain subject to other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State must document and ensure that:

- a. Transportation plans and projects provide for timely implementation of SIP transportation control measures in accordance with 40 CFR 93.113;
- b. Transportation plans and projects comply with the fiscal constraint element per 40 CFR 93.108;

- c. The MPO's interagency consultation procedures meet applicable requirements of 40 CFR 93.105;
- d. Conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;
- e. The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;
- f. Projects do not cause or contribute to any new localized CO or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and
- g. Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

The lead transportation agency in Northern Ada County is the Community Planning Association of Southwest Idaho (COMPASS), the MPO. COMPASS oversees transportation conformity determinations of the Interagency Consultation Committee established in Idaho Administrative Rule IDAPA 58.01.01.567, which includes IDEQ, the Idaho Transportation Department, the Federal Highway Administration, Ada County Highway District, the City of Boise, Valley Regional Transit, and the EPA; as specified under 40 CFR part 93. Northern Ada County is currently meeting the requirements under 40 CFR part 93, subpart A.

VI. Final Action

In accordance with the requirements of the Act, EPA is approving this revision to the SIP

because the State adequately demonstrates that the Northern Ada County Air Quality Maintenance Area will maintain air quality standards for CO through the year 2022. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [insert date 60 days after publication in the Federal Register] without further notice unless the Agency receives adverse comments by [insert date 30 days after publication in the Federal Register].

If EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [insert date 60 days publication in the Federal Register] and no further action will be taken on the proposed rule.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices,

provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule

does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 23, 2012

Dennis J. McLerran
Regional Administrator
EPA Region 10.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart N - Idaho

2. Amend the table in § 52.670(e) entitled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures” by adding an entry to the end to read as follows:

§ 52.670 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Idaho Nonregulatory Provisions and Quasi-Regulatory Measures.

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *				
Northern Ada County Air Quality Maintenance Area Second 10-year Carbon Monoxide Limited Maintenance Plan	State-wide	2/10/11	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	

3. Amend § 52.672 by adding paragraph (a) (2) to read as follows:

§52.672 Approval of plans.

(a) * * *

(2) EPA approves as a revision to the Idaho State Implementation Plan, the Northern Ada County Air Quality Maintenance Area Second 10-year Carbon Monoxide Limited Maintenance Plan submitted by the State on February 10, 2011.

* * * * *

<FRDOC> [FR Doc. 2012-18787 Filed 8-1-12; 8:45 am]
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[FR Doc. 2012-18787 Filed 08/01/2012 at 8:45 am; Publication Date: 08/02/2012]